

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JIM WALDEN,

Plaintiff,

v.

PETER S. KOSINSKI, as the Co-Chair of the New York State Board of Elections; HENRY T. BERGER, as the Co-Chair of the New York State Board of Elections; ESSMA BAGNUOLA, as a Commissioner of the New York State Board of Elections; ANTHONY J. CASALE, as a Commissioner of the New York State Board of Elections; KRISTEN ZEBROWSKI STAVISKY, as Co-Executive Director of the New York State Board of Elections; RAYMOND J. RILEY III, as Co-Executive Director of the New York State Board of Elections; and the NEW YORK CITY BOARD OF ELECTIONS,

Defendants.

Civil No.: 25-cv-00072 (LDH)(TAM)

Declaration of Jacqueline Salit

Jacqueline Salit hereby declares under penalty of perjury, pursuant to 28 U.S.C. 1746, that the following is true and correct:

1. I submit this Declaration to provide information to the Court regarding the history of the Independence Party of New York (“IPNY”), and some of the legal and practical realities of running for office under the New York Election Law as a candidate not nominated by the Democratic Party or Republican Party (collectively, the “Major Parties”). This Declaration is based on my personal knowledge obtained from my more than 40 years working in and observing New York politics, my role as an elected State Committee member of the Independence Party of New York, my national research on independent voters as co-director of the Arizona State University Center for an Independent and Sustainable Democracy, my authorship of several published books on independent voters and independent candidates, and my work as President of the non-profit IndependentVoting.org.

2. I am not associated or affiliated with the political organization that I understand

Plaintiff is working towards establishing as an “independent body” under the Election Law. I did not charge any fee in connection with this Declaration.

Access to the Ballot in New York, Parties and “Independent Bodies”

3. Under the New York Election Law, a person running for New York City Mayor has two ways to be listed on the ballot as a candidate: as the nominee of a “party” or by running as a candidate of an “independent body.”

4. The New York Election Law defines a “party” as “any political organization which . . . at the last preceding election for governor received, at least two percent of the total votes cast for its candidate for governor, or one hundred thirty thousand votes, whichever is greater, in the year in which a governor is elected and at least two percent of the total votes cast for its candidate for president, or one hundred thirty thousand votes, whichever is greater, in a year when a president is elected.” N.Y. Elec. Law § 1-104 (3). It defines an “independent body” as “any organization or group of voters which nominates a candidate or candidates for office to be voted for at an election, and which is not a party as herein provided.” *Id.* at § 1-104(12). This Declaration uses the capitalized word Party to refer to an organization that qualifies under Election Law § 1-104(3) as a political party.

5. New York law privileges Parties in many ways. A Party automatically has access to the ballot statewide. N.Y. Elec. Law §§ 6-104, 6-138(1). In New York elections parlance, Parties are thus often referred to as “ballot-status” Parties.

6. A Party can hold a closed primary or open primary election to choose a statewide candidate, N.Y. Elec. Law § 1-104(9). In a closed primary, only voters enrolled in the Party conducting the primary are eligible to vote. In an open primary, a Party can choose to allow any registered voter or category of registered voter, for example, unaffiliated voters, to participate in

the primary election to choose the Party's nominee.

7. A Party is listed on New York's voter-registration form, allowing new voters to easily affiliate with the Party. *Id.* § 5-300.

8. Moreover, a Party can raise and spend money without limitation in support of its candidates. *Id.* § 14-114.

9. There are currently four Parties in New York: the Democratic, Republican, Conservative, and Working Families Parties.

10. By contrast, an independent body is not automatically entitled to place a candidate on the ballot. Instead, one seeking to appear on an independent body's ballot line must obtain thousands of signatures from registered voters on nominating petitions, and then survive potential challenges to the validity of the petitions. *See* N.Y. Elec. Law § 6-138, *et seq.*

History of the Now-Defunct Independence Party of New York

11. In 1991, New York citizens dissatisfied with the choices offered by the Major Parties formed the IPNY as an independent body. After obtaining Party status, the IPNY's mission was to represent the interests of all independent voters, whether or not they were enrolled in a Party.

12. In 1994, businessman Tom Golisano ran on the Independence line and received more than 217,000 votes for Governor. *See* Ex A. As a result, under the New York Election Law's then-current threshold of statewide electoral success, the IPNY became a Party.

13. Over the following decades, the IPNY was a prominent political party in New York. For example, data compiled and published by the New York State Board of Elections shows that, in its last five years as a Party, the IPNY had the following number of enrolled members:

2016	501,738
2017	481,642

2018	491,373
2019	484,697
2020	481,530

See Ex. B.

14. Consistent with its non-partisan mission, the IPNY both (a) nominated candidates not affiliated with or endorsed by other Parties or independent bodies in New York, and (b) cross-endorsed candidates also nominated by the Major Parties, including in races for Governor and Mayor of New York City. (New York is one of a few States that allows “fusion voting,” which means that a candidate nominated, for example, by the Republican Party also may receive the nomination of a different Party or independent body. The total votes cast for that candidate are aggregated. For example, as noted below, in 2001, 2005 and 2009, Mayor Bloomberg was nominated both by the IPNY and by the Republican Party.)

15. The IPNY partnered with Michael Bloomberg in his three successful Mayoral campaigns. I was the architect of that partnership. For example, in 2001, Mr. Bloomberg appeared on the ballot in his first election for Mayor of New York City on the lines of both the Independence Party and the Republican Party. He won the election with the votes on the Independence Party line providing his margin of victory

16. Mayor Bloomberg won again in 2005, running on the ballot lines of the Independence Party, the Republican Party, and the Liberal Party.

17. Mayor Bloomberg won again in 2009, running on both the Independence Party and Republican Party lines (although he left the Republican Party in 2008). In both the 2001 and 2009 elections, Mayor Bloomberg would not have prevailed but for votes cast for him on the Independence Party line. The New York City affiliate of the state IPNY became the powerhouse of

the state party and a sought-after partner for statewide candidates of the major parties.

18. The IPNY, along with several other ballot-status Parties, lost that status in 2020, because amendments to Election Law § 1-104(3) heightened the requirements for designation as a Party. Whereas, when the IPNY qualified as a Party in 1994 the candidate running on the line of an independent body needed to obtain more than 50,000 votes in the gubernatorial election to become a ballot-status Party, New York dramatically increased that threshold in 2020. *See* N.Y. Elec. Law § 1-104(3) (requiring greater of 130,000 votes or 2% of votes cast in both gubernatorial *and* presidential races in New York).

19. The IPNY has not nominated a candidate for any elected office in New York since 2020.

20. In 2021, Curtis Sliwa, the nominee of the Republican Party for Mayor, also obtained access to the ballot as the candidate of an independent body named the Independent Party. *See* Ex. C.

Anecdotal Claims of Confusion Regarding Voters Enrolling in the IPNY When Registering

21. In late December 2012, the *New York Daily News* published an opinion piece – not a news article – which featured the results of a “survey” of persons enrolled as members of the IPNY. *See* Ex. D. Although the opinion piece does not state when such persons were surveyed, it appears they were questioned in the months preceding December 2012, when the editorial board published the article.

22. The opinion piece stated that 169 of the 200 persons questioned – 85% of respondents – thought they had enrolled in no party rather than in the IPNY. *See* Ex. D. As of November 2012, there were 474,011 voters enrolled statewide in the IPNY. *See* Ex. E. The *Daily News* thus based its opinion piece on the responses of .04% of members of the state Party. The

newspaper did not publish any qualitative information to demonstrate the reliability of its informal survey. From the face of the article, the survey concluded that some voters were “confused” about their status when they registered to vote. *Id.*

23. Although the IPNY nominated candidates to run in many elections in New York between 1991 and 2020, I am unaware of any inquiry or action made or taken by the New York State Board of Elections, New York City Board of Elections, or any other agency based on a concern that voters were confused when signing nominating petitions or in the polling booth that a candidate running on an “Independence Party” line was not affiliated with a political party.

24. Indeed, I note that when Curtis Sliwa ran for Mayor – as the nominee of the Republican Party and also as the candidate nominated by an independent body named the Independent Party – the New York City Board of Elections rejected a challenge to his petitions, determining that because there was no other party then using the Independence or Independent name, there was no likelihood of confusion. See Ex F (Transcript of NYC BOE Commissioners’ Hearing) at 82-86.

The Major Parties Control Election Administration and the Legislature

25. The Major Parties control the administration of elections at the state and local level. For example, the Major Parties appoint the commissioners of both the New York State Board of Elections and the New York City Board of Elections. And local polling clerks and poll inspectors are nominated from lists submitted by the Major Parties.

26. The Major Parties control the Legislature, which writes and enacts the Election Law.

27. The Major Parties appoint or nominate virtually all of the judges of the New York courts.

The Legislature's Ban on Use of the Words "Independent" or "Independence" in Party Name

28. Based on my research and decades of experience participating in and observing New York and national politics, the cohort of voters not enrolled in, and/or not affiliated or self-identified with, any established political Party is rapidly growing. Reducing the options on the ballot that might appeal to such independent voters directly benefits the Major Parties. Although I have long believed that the State Legislature, made up solely of Democrats and Republicans, had a hostile posture towards non-partisan independent parties, I never expected that the Legislature would enact a law banning the use of the words Independent or Independence in a Party name. It is clear to me that doing so was motivated by the Major Parties' desire to repress the potential electoral power of independent voters and candidates and to protect the electoral prospects of candidates nominated by the Major Parties. That is further evidenced by the fact that the Parties that have survived a succession of actions to reduce electoral competition are the Working Families Party, which reliably cross-endorses the nominees of the Democratic Party, and the Conservative Party, which reliably cross-endorses the nominees of the Republican Party.

Dated: January 15, 2025
New York, New York


Jacqueline Salit

Exhibit A

New York State Board of Elections

1994 General Election Results

November 8, 1994

Compiled from officially certified records

Compiled June 30, 2023

**Vote Cast for United States Senator
by Party of Candidate
New York State by County
November 8, 1994**



New York State Total

All Votes Cast.....	5,328,486
Patrick Moynihan - Democrat.....	2,528,387
Bernadette Castro - Republican/Tax Cut Now.....	1,711,760
Bernadette Castro - Conservative.....	276,548
Henry F. Hewes - Right to Life.....	95,954
Patrick Moynihan - Liberal.....	118,154
Naomi L. Craine - Socialist Workers.....	14,892
Ismael Betancourt Jr. - Independence Fusion....	26,650
Norma Segal - Libertarian.....	17,991
Blank, Void and Scattering.....	538,150



New York City Total

All Votes Cast.....	1,577,888
Patrick Moynihan - Democrat.....	913,408
Bernadette Castro - Republican/Tax Cut Now.....	282,342
Bernadette Castro - Conservative.....	40,393
Henry F. Hewes - Right to Life.....	13,002
Patrick Moynihan - Liberal.....	43,770
Naomi L. Craine - Socialist Workers.....	6,559
Ismael Betancourt Jr. - Independence Fusion....	6,473
Norma Segal - Libertarian.....	5,792
Blank, Void and Scattering.....	266,149



Exhibit B

NYSVoter Enrollment by County, Party Affiliation and Status
Voters Registered as of November 1, 2016

REGION	COUNTY	STATUS	DEM	REP	CON	GRE	WOR	IND	WEP	REF	OTH	BLANK	TOTAL
Within NYC Total		Active	3,047,607	455,643	19,140	7,524	14,720	109,316	1,085	138	1,566	820,352	4,477,091
Within NYC Total		Inactive	295,434	46,333	1,816	893	1,931	14,361	16	1	227	89,259	450,271
Within NYC Total		Total	3,343,041	501,976	20,956	8,417	16,651	123,677	1,101	139	1,793	909,611	4,927,362
Statewide Total		Active	5,665,105	2,648,842	151,971	25,857	44,366	454,006	2,232	891	6,255	2,476,908	11,476,433
Statewide Total		Inactive	514,629	190,862	10,711	3,056	5,673	47,732	46	9	868	243,231	1,016,817
Statewide Total		Total	6,179,734	2,839,704	162,682	28,913	50,039	501,738	2,278	900	7,123	2,720,139	12,493,250

NYSVoter Enrollment by County, Party Affiliation and Status
Voters Registered as of November 1, 2017

REGION	COUNTY	STATUS	DEM	REP	CON	GRE	WOR	IND	WEP	REF	OTH	BLANK	TOTAL
Within NYC Total		Active	3,156,031	476,614	18,379	7,912	13,761	105,923	1,782	258	1,319	814,834	4,596,813
Within NYC Total		Inactive	297,838	48,385	1,840	980	1,859	14,329	45	3	234	91,516	457,029
Within NYC Total		Total	3,453,869	524,999	20,219	8,892	15,620	120,252	1,827	261	1,553	906,350	5,053,842
Statewide Total		Active	5,775,104	2,674,700	146,372	26,453	41,911	441,442	3,603	1,586	6,502	2,429,021	11,546,694
Statewide Total		Inactive	475,228	166,206	9,222	2,848	4,674	40,200	179	42	765	216,221	915,585
Statewide Total		Total	6,250,332	2,840,906	155,594	29,301	46,585	481,642	3,782	1,628	7,267	2,645,242	12,462,279

NYSVoter Enrollment by County, Party Affiliation and Status
Voters Registered as of November 1, 2018

REGION	COUNTY	STATUS	DEM	REP	CON	GRE	WOR	IND	WEP	REF	OTH	BLANK	TOTAL
Within NYC Total		Active	3,149,461	468,006	18,320	8,571	13,810	105,346	2,905	514	1,782	844,605	4,613,320
Within NYC Total		Inactive	342,482	54,534	1,998	1,107	2,178	15,909	110	12	328	105,970	524,628
Within NYC Total		Total	3,491,943	522,540	20,318	9,678	15,988	121,255	3,015	526	2,110	950,575	5,137,948
Statewide Total		Active	5,780,030	2,633,776	146,061	27,581	41,853	442,992	5,845	2,200	7,675	2,486,209	11,574,222
Statewide Total		Inactive	579,103	212,207	11,176	3,497	5,613	48,381	346	115	993	270,397	1,131,828
Statewide Total		Total	6,359,133	2,845,983	157,237	31,078	47,466	491,373	6,191	2,315	8,668	2,756,606	12,706,050

NYSVoter Enrollment by County, Party Affiliation and Status
Voters Registered as of November 1, 2019

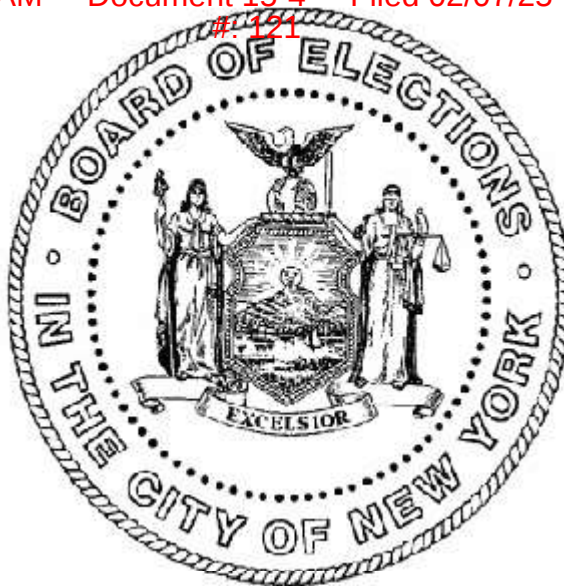
REGION	COUNTY	STATUS	DEM	REP	CON	WOR	GRE	LBT	IND	SAM	OTH	BLANK	TOTAL
Within NYC Total		Active	3,257,214	475,614	19,026	13,796	8,035	2,772	104,983	47	4,140	886,598	4,772,225
Within NYC Total		Inactive	324,277	52,290	1,925	2,050	1,068	334	15,130	0	114	100,971	498,159
Within NYC Total		Total	3,581,491	527,904	20,951	15,846	9,103	3,106	120,113	47	4,254	987,569	5,270,384
Statewide Total		Active	5,938,789	2,630,555	147,747	41,140	25,730	12,186	439,552	161	8,504	2,539,547	11,783,911
Statewide Total		Inactive	555,707	204,683	10,735	5,223	3,386	1,026	45,145	0	575	259,586	1,086,066
Statewide Total		Total	6,494,496	2,835,238	158,482	46,363	29,116	13,212	484,697	161	9,079	2,799,133	12,869,977

NYSVoter Enrollment by County, Party Affiliation and Status

Voters Registered as of November 01, 2020

REGION	STATUS	DEM	REP	CON	WOR	GRE	LBT	IND	SAM	OTH	BLANK	TOTAL
Within NYC Total	Active	3,349,179	501,591	19,347	13,391	7,529	4,317	99,728	176	3,259	949,669	4,948,186
Within NYC Total	InActive	398,847	67,141	2,468	2,360	1,357	514	18,373	1	248	125,520	616,829
Within NYC Total	Total	3,748,026	568,732	21,815	15,751	8,886	4,831	118,101	177	3,507	1,075,189	5,565,015
Statewide Total	Active	6,189,227	2,744,859	151,012	40,367	24,972	20,298	434,501	647	6,880	2,750,309	12,363,072
Statewide Total	InActive	622,432	220,592	11,085	5,243	3,529	1,253	47,029	2	705	280,605	1,192,475
Statewide Total	Total	6,811,659	2,965,451	162,097	45,610	28,501	21,551	481,530	649	7,585	3,030,914	13,555,547

Exhibit C



Statement and Return Report for Certification

**General Election 2021 - 11/02/2021
Crossover - All Parties and Independent Bodies**

Mayor
Citywide
Vote for 1



New York County

PUBLIC COUNTER	246,037
MANUALLY COUNTED EMERGENCY	12
ABSENTEE / MILITARY	31,068
AFFIDAVIT	2,100
Total Ballots	279,217
Less - Inapplicable Federal/Special Presidential Ballots	0
Total Applicable Ballots	279,217
ERIC L. ADAMS (DEMOCRATIC)	219,045
CURTIS A. SLIWA (REPUBLICAN)	36,601
WILLIAM A. PEPITONE (CONSERVATIVE)	1,431
CATHERINE ROJAS (SOCIALISM & LIB)	7,687
STACEY H. PRUSSMAN (LIBERTARIAN)	1,039
FERNANDO MATEO (SAVE OUR CITY)	460
CURTIS A. SLIWA (INDEPENDENT)	2,067
RAJA MICHAEL FLORES (HUMANITY UNITED)	743
SKIBOKY STORA (OUT LAWBREAKER)	46
QUANDA S. FRANCIS (EMPOWERMENT)	972
AARON HICKS (WRITE-IN)	1
AARON JUDGE (WRITE-IN)	1
ABDUL MALIK (WRITE-IN)	1
ABIGAIL ZUGAR (WRITE-IN)	1
ABRAHAM LINCOLN (WRITE-IN)	1
ADAM HERBST (WRITE-IN)	1
ADRIENE HOLDER (WRITE-IN)	1
AIDA PADOW (WRITE-IN)	1
AKIVA HOMNICK (WRITE-IN)	1
AL FRANKEN (WRITE-IN)	3
AL GORE (WRITE-IN)	1
AL LEWIS (WRITE-IN)	1
ALADJI SOW (WRITE-IN)	1
ALAN P. COHEN (WRITE-IN)	2
ALEC BALDWIN (WRITE-IN)	1
ALEJANDRO NUNEZ (WRITE-IN)	1
ALEX NAVARRO (WRITE-IN)	1
ALEXANDER BERGER (WRITE-IN)	1
ALEXANDER CROHN (WRITE-IN)	1
ALEXANDER DASH (WRITE-IN)	1
ALEXANDRA POMERANTZ (WRITE-IN)	1
ALEXANDRIA OCASIO-CORTEZ (WRITE-IN)	11
ALEXIS R. POSEY (WRITE-IN)	1
ALFRED E. NEUMAN (WRITE-IN)	1
ALICE L. FONTIER (WRITE-IN)	1
ALICIA BOYD (WRITE-IN)	1
ALTON H. MADDIX JR. (WRITE-IN)	1
AMY ELLISON (WRITE-IN)	1
ANDREW CUOMO (WRITE-IN)	11

Exhibit D

OPINION

Independence Party's confusing name has tricked thousands of New Yorkers



By **CONTRIBUTED CONTENT**

UPDATED: January 10, 2019 at 12:24 PM EST

Joseph Marino is one of the thousands of phantoms carried on the rolls of New York's Independence Party.

When he registered to vote last year, the 34-year-old Queens plumber checked a box beside the name Independence Party, believing he had filed to be independent of any party affiliation.

Informed of his mistake — one made by 85% of Independence Party enrollees interviewed by the Daily News — Marino got to the heart of the deception by which party leaders keep power and exercise undue influence over the ballot. He said:

"I registered as an independent. I didn't intend to join the Independence Party. They are putting two words that are similar together. If you put them together in the same sentence, if you are not paying attention, you are not going to catch that. We all can't make the same mistake."

But voters are doing so in high numbers.

Fully 169 of 200 voters contacted by The News, all of whom are listed as registering in 2010 and 2011, were surprised to learn that the party counted them as loyalists.

The error rate flies in the face of New York's policy of minimizing all possible voter confusion. Undergirded by statutes and court decisions are two commandments:

Thou shalt not allow voters to be led into making unintended choices, and

Thou shalt not gain political power by deception.

The commandments must be enforced.

Independence Party rolls climbed markedly over the past four years as large numbers of New Yorkers confused the word IndependENCE for independENT when registering to vote.

Still worse, many voters undoubtedly made the same error at the polls, casting ballots in the mistaken belief that their chosen candidates were were not affiliated with political organizations.

The party's leaders have ridden this confusion to power — despite backgrounds that would seem to qualify them as fringe political players.

The cultlike followers of the late Fred Newman dominate the New York City hierarchy. Newman was a Marxist who espoused “social therapy,” a form of counseling that can include patient-therapist sex, described as “friendosexuality.”

Newman was also a Jew who was given to statements like: “The Jew, the dirty Jew, once the victim of capitalism’s soul, fascism, would become a victimizer on behalf of capitalism, a self-righteous dehumanizer and murderer of people of color.”

To listen to the accounts of voters who stumbled into Independence Party membership is to understand that dramatic steps are necessary because the party is undermining ballot integrity by exploiting the mixup between Independence and independent.

Rafal Krakowski of Queens is a Polish immigrant who became a citizen and, for the first time, registered to vote in 2010. He spoke for many, saying:

"The Independence Party can say, 'Okay, we've got a member,' but in a matter of fact, they don't."

Said Alfred Yarkony of Staten Island: "When they asked what I wanted to do, I said independent. I didn't mean Independence Party. I had no intention at any time to become a member of the Independence Party."

Tammy Kopko of Brooklyn was surprised to learn from The News that she had registered in the Independence Party. Referring to its activists, she said:

"They call constantly because they need signatures to get somebody on the ballot. I always say no, it was a big mistake, I don't want to be in this party. They always say, 'Oh, it doesn't matter, sign anyway.' "

To test whether the interviews offered a representative sampling of voter confusion, The News surveyed candidates for seven offices and 14 consultants who had experience polling or circulating petitions among listed Independence Party members.

The candidates included contestants for the Assembly, Senate, City Council and judgeships in races that stretched from Bayside to Buffalo. They and the consultants unanimously agreed that large numbers of voters express surprise on being told they belong to the Independence Party. The estimates ranged from 20% to 50% of the voters contacted.

"It's my experience that people are shocked to find out that they are members of the Independence Party, and a lot of them are angry," said political consultant Darryl Fox.

State Senate Democratic leader John Sampson of Brooklyn ran on the Independence Party ballot line as well as on his own party's line in 2010. To do so, Sampson hired a notary public experienced in gathering the required petition signatures.

"I've done this for three years, but this was the first time I have gotten signatures for the Independence Party," said Delton Braham, who estimated that one in three voters had no idea they were listed as belonging to the party.

"What happened is that I would ring the bell and say I was collecting signatures for the Independence Party. Many times, voters would tell me that they were not in the Independence Party. They would say they were independent of any party.

"I would tell them, no, that when they checked that box on the registration form that said 'Independence,' they became party members. Sometimes they would argue with me. Some would refuse to sign, saying because they are not a member of any party.

"I estimate it happened with one out of every three."

Even the most conservative estimates offered by the candidates and consultants surveyed by The News indicate a prevalence of error that violates New York's insistence on

precision in elections.

Independence Party leaders are trading on deception in voter registration and, surely and most seriously, at the polls. As the courts have clearly stated, both are intolerable in New York.

Originally Published: December 11, 2012 at 4:15 AM EST

Exhibit E

NYSVoter Enrollment by County, Party Affiliation and Status
Voters Registered as of November 01, 2012

REGION	COUNTY	STATUS	DEM	REP	CON	WOR	IND	GRE	OTH	BLANK	TOTAL
Within NYC Total		Active	2,877,217	460,129	19,508	13,566	107,194	5,601	1,186	740,410	4,224,811
Within NYC Total		Inactive	277,209	42,907	1,560	1,606	11,873	888	95	79,473	415,611
Within NYC Total		Total	3,154,426	503,036	21,068	15,172	119,067	6,489	1,281	819,883	4,640,422
Statewide Total		Active	5,403,236	2,681,954	145,124	40,961	430,072	19,823	3,560	2,249,506	10,974,236
Statewide Total		Inactive	509,799	191,406	9,521	5,531	43,939	3,132	368	231,260	994,956
Statewide Total		Total	5,913,035	2,873,360	154,645	46,492	474,011	22,955	3,928	2,480,766	11,969,192

Exhibit F

BOARD OF ELECTIONS
IN THE CITY OF NEW YORK

COMMISSIONERS' MEETING

42 Broadway - 6th floor
Commissioners' Hearing Room

New York, NY 10004

June 15, 2021

1:30 p.m. - 5:40 p.m.

June 15, 2021

PRESENT:

President Frederic Umane
Secretary Miguelina Camilo
Commissioner Jose Araujo
Commissioner Michael Michel
Commissioner Gino Marmorato
Commissioner Simon Shamoun
Commissioner Rodney L. Pepe-Souvenir
Commissioner Patricia Ann Taylor
Commissioner Tiffany Townsend
Commissioner John Wm. Zaccone

Dawn Sandow, Deputy Executive Director
Pamela Perkins, Administrative Manager
Georgea Kontzamanis, Operations Manager
Kenneth Moltner, Counsel to the Commissioners
Steven Denkberg, Counsel to the Commissioners
Hemalee Patel, General Counsel
Raphael Savino, Deputy General Counsel
Rayvon Weaver, CRU
Michael Carmosino, CRU
Raquel Torres, CRU
Tom Sattie, Ballot Coordinator
Bart Haggerty, Deputy Chief Clerk, Queens
Amanda Berinato, Chief Clerk, Queens

June 15, 2021

ALSO PRESENT:

Paul Grindle, Esq.

Abbey Laurel-Smith

Walter N. Iwachiw, Candidate

Curtis Brooks, Candidate

Suraj Jaswal, Candidate

Ruben D. Cruz, Candidate

Jason R. Price, Candidate

Robert Morgan

Frank Marano

Alexandra Sherer, Esq.

Aaron Foldenauer, Esq.

Michael Scala, Esq.

Raimondo Graziano, Representative

Danniel Maio, Esq.

Brendan Lantry, Esq.

Sal Ablanese, Candidate

1 June 15, 2021

2 (The meeting commenced at 1:13 p.m.)

3 MS. DAWN SANDOW: Good afternoon, today
4 is Tuesday, June 15, 2021 and this is the
5 commissioners' meeting of the Board of Elections
6 in the city of New York. My name is Dawn Sandow
7 and I am the deputy executive director of the
8 Board of Elections. I will begin today's meeting
9 with the commissioners' roll call. President
10 Umane?

11 PRESIDENT FREDERIC UMANE: Here.

12 MS. SANDOW: Secretary Camilo?

13 SECRETARY MIGUELINA CAMILO: Here.

14 MS. SANDOW: Commissioner Araujo?

15 COMMISSIONER JOSE ARAUJO: Here, and
16 good afternoon, everyone.

17 MS. SANDOW: Commissioner Marmorato?

18 COMMISSIONER GINO MARMORATO: Good
19 afternoon, present.

20 MS. SANDOW: Commissioner Michel?

21 COMMISSIONER MICHAEL MICHEL: Good
22 afternoon, present.

23 MS. SANDOW: Commissioner Pepe-Souvenir?

24 COMMISSIONER RODNEY L. PEPE-SOUVENIR:

1 June 15, 2021

2 Good afternoon, present.

3 MS. SANDOW: Commissioner Shamoun?

4 COMMISSIONER SIMON SHAMOUN: Present,
5 thank you.

6 MS. SANDOW: Commissioner Taylor?

7 COMMISSIONER PATRICIA ANNE TAYLOR: I am
8 present, good afternoon.

9 MS. SANDOW: Commissioner Townsend?

10 COMMISSIONER TIFFANY TOWNSEND: Good
11 afternoon, present.

12 MS. SANDOW: Commissioner Zaccone?

13 COMMISSIONER JOHN WM. ZACCONE: Good
14 afternoon, everybody, present.

15 MS. SANDOW: Also joining us today from
16 executive management in another location is
17 Georgea Kontzamanis, operations manager, general
18 counsel Hemalee Patel and deputy general counsel
19 Raphael Savino, as well as Ken Moltner and Steve
20 Denkberg, counsel to the commissioners. We also
21 have our candidate records unit team, Rayvon
22 Weaver, Michael Carmosino, Raquel Torres and Tom
23 Sattie.

24 MS. KONTZAMANIS: Ms. Sandow, can I

1 June 15, 2021

2 interrupt you for a second?

3 MS. SANDOW: Sure.

4 MS. KONTZAMANIS: Calling user four, can
5 you kindly announce yourself? The person who just
6 joined our meeting, can you kindly unmute and
7 announce yourself or you will be expelled from
8 the meeting. Hello?

9 UNIDENTIFIED MALE: Yes,
10 [unintelligible] [00:08:49]

11 MS. KONTZAMANIS: Okay, we're going to
12 move you to the lobby.

13 UNIDENTIFIED MALE: Thank you.

14 MS. KONTZAMANIS: Thank you, Ms. Sandow.

15 MS. SANDOW: We will begin today's
16 meeting with the hearings on independent
17 nominating petitions for the November 2, 2021
18 general election. I'd like to turn the meeting
19 over to President Umane.

20 PRESIDENT UMANE: Okay, thank you. These
21 are the hearings on prima facie defects
22 specifications of objections and related matters
23 for the independent nominating petitions for the
24 November 2, 2021 general election. My name is

1 June 15, 2021
2 Fred Umane, and I'm the president of the board
3 for the calendar year for 2021 and the Republican
4 commissioner for New York County. I call this
5 hearing by the commissioners of the Board of
6 Elections in the city of New York to order. My
7 colleagues and I appear today via video
8 conference link, as will the majority of the
9 candidates, objectors or their representatives in
10 light of the COVID pandemic and the continued
11 suspension of the related section of the open
12 meetings law by the governor.

13 The commissioners and staff of the Board
14 of Elections in the city of New York are mindful
15 of our responsibility to ensure that a fair,
16 honest, open and lawful election process
17 continues within our city.

18 Today's hearings concern specifications
19 of objection and any potential prima facie
20 defects with respect to some of the independent
21 nominating petitions filed for the November 2,
22 2021 general election and related matters. These
23 hearings will be conducted in accordance with the
24 provisions of the New York State Election law,

1 June 15, 2021

2 the board's independent nominating petition rules
3 adopted on December 18, 2018. The executive
4 orders issued by the governor of the state of New
5 York which modified provisions of the open
6 meetings law as well as New York State election
7 law.

8 The schedule for today's hearings was
9 posted on the board's website at all BOE
10 locations and the information was shared on
11 various social media sites as well. Each of the
12 calendars listing the matters that the
13 commissioners will consider were also posted on
14 the board's website, as well as in the board's
15 hearing room.

16 Please note that the emergency
17 procedures for these hearings were prominently
18 posted on the board's website as well, and
19 referenced in many of the notices sent out by the
20 board communicated to each candidate and
21 objector. All of those participating by WebEx
22 video were sent directions on how to participate
23 in this WebEx video conference meeting. I will
24 ask that all participants in this proceeding put

1 June 15, 2021

2 their microphones on silent until called upon to
3 speak and turn off the live stream of the
4 hearing. This will help us all hear what each
5 person is saying. I will waive the roll call of
6 the elections commissioners as such has already
7 been recently conducted.

8 A reminder, only one speaker at a time.
9 This is especially important with this video
10 proceeding. I want to remind all commissioners,
11 board staff, attorneys, candidates and objectors
12 that only one person should speak at any one
13 time, so that the audiovisual system can
14 accurately record the proceedings. As noticed
15 above, if you are not speaking, please ensure
16 that your microphone is on mute and turn off the
17 live stream of the hearing.

18 The procedure on voting on clerks'
19 reports and counsel reports, I want to also
20 advise all present that this board is required by
21 law to record how each commissioner votes on each
22 matter. In the event that the commissioners are
23 not unanimous in their determination on a given
24 matter, I will ask that our counsel conduct a

1 June 15, 2021

2 roll call vote of the commissioners for the
3 record. I now call upon general counsel Hemalee
4 Patel and deputy general counsel Raphael Savino
5 to call the calendar for this hearing.

6 MS. HEMALEE PATEL: Good afternoon,
7 everyone. Today's hearings relate to the CRU
8 prima facie matters and specifications of
9 objections regarding the independent nominating
10 petitions filed for the November 2, 2021 general
11 election. I will now ask Raquel Torres, of our
12 CRU unit to call the prima facie calendar.

13 MS. RAQUEL TORRES: Good afternoon,
14 everyone. We're going to start with the
15 crossovers. Party, No Party for Peter Guimaraes,
16 Libertarian Party, Stacey Prussman, Devin W.
17 Balkind, Party for Socialism and Liberation,
18 Sasha Murphy, FBNT Party, Walter N. Iwachiw,
19 Callie Lou Kamara [phonetic], Black Women Lead
20 Party, Jocelyn Taylor, Theo Bruce Chino Tavares.
21 For the Patriot Party, Bill Morasky [phonetic],
22 Love Party Paperboy Prince, Paperboy Love Prince,
23 I'm sorry, and Theo Bruce Chino Tavares. Vitaly
24 for All, Vitaly Filipchenko, Rent is Too Damned

Pages 11 – 79 Intentionally Omitted

1 June 15, 2021

2 MS. PATEL: Thank you, commissioners.

3 PRESIDENT UMANE: Okay.

4 MS. PATEL: Okay.

5 PRESIDENT UMANE: The candidate is off
6 the ballot.

7 MS. SHERER: Thank you.

8 MS. PATEL: Thank you.

9 MS. SHERER: Thank you, commissioners.

10 MS. PATEL: You going to do Queens?
11 These are all the same, yeah.

12 MR. SAVINO: Good afternoon,
13 commissioners. Clerks' report New York 9-1 --

14 SECRETARY CAMILO: We can't hear you. Or
15 I can't hear you, sorry.

16 MS. PATEL: Sorry, commissioners, can
17 you hear us?

18 SECRETARY CAMILO: Commissioner
19 Souvenir, mute yourself.

20 MS. PATEL: Can you hear us? Okay. Thank
21 you. Commissioners, this is New York 9-1, in the
22 matter of the objections by Alexandra Sherer to
23 the petition of Curtis Sliwa for Maior of the
24 city of New York, total number of signatures

1 June 15, 2021

2 required is 3,750, the total number of valid
3 signatures is 5,199. Commissioners, there were
4 legal objections raised to this.

5 MS. SHERER: Yes, if I could be heard on
6 this. Thank you, commissioners.

7 MS. PATEL: And commissioners I can, I
8 can give you our counsel report orally if you
9 don't mind.

10 PRESIDENT UMANE: Okay.

11 MS. PATEL: So commissioners, the
12 objections, the specifications of objections
13 state two legal reasons that the petitions should
14 not be, the petitions should not be deemed valid.
15 The one, the first one is that the cover sheet
16 did not set forth the New York City Charter as a
17 standard for signature requirements. And
18 commissioners, as you will see in the other
19 counsel's reports, the issue of the cover sheet,
20 it has long been the practice of the Board of
21 Elections to accept this language on our cover
22 sheet, which is, quote, the petition contains the
23 number or in excess of the number of valid
24 signatures required by election law. Without

1 June 15, 2021
2 requiring the citation to the City Charter, and
3 commissioners, throughout this process,
4 throughout COVID, where we've had the City
5 Charter amend the number of signatures required,
6 we have accepted hundreds of cover sheet as valid
7 in the form that has been prescribed by the
8 state. And commissioners, the sample cover sheet
9 that we used says election law, the form of the
10 cover sheet set forth in 9NYCRR section 6125.2 as
11 to the form of cover sheets also says election
12 law.

13 The second issue raised by the
14 specification is the issue of the name of the
15 independent body as Independent Party. The
16 objector states that this is not allowable
17 because Independence Party, which used to exist,
18 is too similar and is misleading and causes
19 possible confusion to the voters.

20 And it is counsel's opinion, both myself
21 and Mr. Savino, bipartisan, that independent
22 bodies are free to select the name of a former
23 political party as the name of their independent
24 body, that the claim that Independent conflicts

1 June 15, 2021

2 with the name of the former independence party is
3 without merit and it is our recommendation that
4 that specification of objections be not as
5 stated.

6 And the last two issues raised by the
7 specifications with regard to the cover sheet
8 were dealt with all in cover sheet review,
9 commissioners and we believe that they cannot be
10 raised here as a review of what was already done
11 by bipartisan teams of commissioners.

12 PRESIDENT UMANE: Okay. Ms. Sherer, do
13 you have something to add that indicates the
14 incorrectness of the counsel report?

15 MS. SHERER: Yes, I do. Thank you,
16 commissioners, for hearing me. So I would like to
17 argue about the word independent in relation to
18 the party. First of all, the cover sheet does
19 just state independent. It doesn't state
20 Independent Party, which I believe causes some
21 confusion, as well as the fact that they are
22 calling themselves independent party causes
23 confusion for voters in the state of New York who
24 are registered blanks who would like to vote for

1 June 15, 2021

2 a candidate who is an independent and they might
3 be confused by the fact that this independent
4 nominating petition is called Independent Party,
5 because is this were upheld that this petition
6 could be filed and that these candidates could be
7 on a party deemed Independent Party, it would be
8 similar to if a candidate filed a petition called
9 Democrat, which would confuse the voters of the
10 Democratic Party because they're confusingly
11 similar. So I would just argue that Independent
12 Party should not be deemed a valid name for an
13 independent body and that both this spec, New
14 York 9-1 and RH 9-2 shouldn't [unintelligible]
15 [01:34:26] that.

16 PRESIDENT UMANE: But that doesn't
17 invalidate the petition. If you're correct that
18 it is confusing, we would just accept the
19 petition and have them change their name.
20 However, since the party is no longer a party,
21 they're allowed to use it under the specific
22 section under the election law.

23 MS. SHERER: Okay. And, thank you for
24 that. There is just, there are a few cases that I

1 June 15, 2021

2 found. One particularly is McCarthy v. Lawley and
3 that's 314 New York State 2D 626. And this is one
4 of the cases that I found wherein a petition for
5 the Conservation Party was filed and it was found
6 that that was too similar to the Conservative
7 Party. So that petition was deemed invalid for
8 that reason, so.

9 PRESIDENT UMANE: Yeah, but at the time,
10 the Conservative Party was a regular Party. The
11 Independence Party no longer exists. So that's
12 the distinguishing feature of that case and the
13 case that we have now.

14 MS. SHERER: I would just argue that
15 there are independent -- voters who consider
16 themselves to be independent who are registered
17 blanks and they might be confused as to the fact
18 that a party calling itself Independent Party is
19 not in fact independent. Obviously this candidate
20 is --

21 PRESIDENT UMANE: Okay.

22 MS. SHERER: -- is associated with the
23 Republican Party.

24 PRESIDENT UMANE: Okay. Anything else?

1 June 15, 2021

2 MS. SHERER: Thank you.

3 PRESIDENT UMANE: Okay. Is there a
4 motion to support the counsel's view and that we
5 view, deal with it not as stated?

6 COMMISSIONER ZACCONE: I'm going to move
7 the counsel's report and the clerks' report,
8 finding sufficient numbers of signatures and the
9 claim's not as stated.

10 COMMISSIONER MICHEL: Second.

11 PRESIDENT UMANE: Is there a second?
12 Okay. All in favor?

13 MULTIPLE: Aye.

14 PRESIDENT UMANE: All opposed? All
15 abstentions?

16 MS. PATEL: Commissioners, we have one
17 more citywide spec that is a --

18 MS. SANDOW: Legal, your mic is off.

19 MS. PATEL: Oh, sorry.

20 MS. SANDOW: And the motion moved.

21 Please state that the motion moved.

22 MS. PATEL: Sorry. The motion moves and
23 counsels report is adopted, the candidate remains
24 on the ballot. Commissioners, we have, in the

1 June 15, 2021

2 matter of the objections of Alexandra Sherer, to
3 the petition of John A. Tobacco, Jr. for the
4 comptroller of the city of New York, this is
5 NY11-1, total number of signatures required is
6 3,750, total number of valid signatures is 3,557.
7 I don't know if there are appearances. And
8 commissioners, there is a counsel's report on
9 this on NY11-1, if you'd like me to read it, but
10 I don't know whether anyone --

11 PRESIDENT UMANE: Isn't it the same
12 basic objections that we just dealt with?

13 MS. PATEL: It is, commissioners. But
14 additionally, in the specification of objections,
15 if you look at the counsel's report, there is an
16 error and it refers to Mr. Tobacco's candidacy as
17 candidate for Maior and claims that there are
18 insufficient signatures for office of Maior. And,
19 commissioner, as you like to say, if you're going
20 to knock somebody off the ballot, you should do
21 it correctly.

22 PRESIDENT UMANE: Okay. Are you
23 suggesting that there be a motion to --

24 MS. PATEL: Yes, commissioner.

1 June 15, 2021

2 PRESIDENT UMANE: -- dismiss the specs
3 as nonconforming?

4 MS. PATEL: Yes, commissioner, we are
5 asking that the specs, yeah, not as stated.

6 PRESIDENT UMANE: Somebody want to make
7 that motion?

8 COMMISSIONER ZACCONE: I'll move that we
9 adopt the counsel's report, that the legal
10 objections are not as stated.

11 COMMISSIONER MICHEL: Second.

12 PRESIDENT UMANE: Okay. All in favor?

13 MULTIPLE: Aye.

14 PRESIDENT UMANE: All opposed? All
15 abstentions?

16 MS. SHERER: I don't know if I can just
17 add that I would move to adopt the clerks' report
18 that does state the total valid signatures is
19 3,557 with number of signatures required being
20 3,750, so he did file under the number of
21 signatures. I would just move that we would adopt
22 the clerks' report.

23 PRESIDENT UMANE: Well, the motion was
24 to --

Pages 89 – 200 Intentionally Omitted

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of the Board of Elections in The City of New York on June 15, 2021 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By

A handwritten signature in cursive script that reads "Claudia Marques". The signature is written in dark ink and is positioned above a horizontal line.

Date: December 17, 2021

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